

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
Boston Division

_____	)	
ANTHONY BUTLER	)	
	)	
Plaintiff	)	
	)	
v.	)	
	)	C.A. No.: 1:18-cv-10191-PBS
THE SHERATON OKLAHOMA CITY	)	
DOWNTOWN HOTEL, THE SHERATON	)	
LLC, STARWOOD HOTELS & RESORTS	)	
WORLDWIDE, LLC, MARRIOTT	)	
INTERNATIONAL, INC.,	)	
LIFE FITNESS, INC. and	)	
BRUNSWICK CORPORATION	)	
	)	
Defendants	)	
_____	)	

**JOINT SCHEDULING CONFERENCE STATEMENT**

Pursuant to Fed. R. Civ. P. 16(b), Local Rule 16.1, and the Court's February 5, 2018 Notice of Scheduling Conference, the plaintiff, Anthony Butler ("Plaintiff") and the defendants, the Sheraton Oklahoma City Downtown Hotel, the Sheraton LLC, Starwood Hotels and Resorts Worldwide, LLC, Marriott International, Inc., Life Fitness, Inc. and Brunswick Corporation (collectively, the "Parties"), have conferred on a plan for motions and discovery and submit the following joint statement:

**I. Proposed Agenda of Matters to be Discussed at Scheduling Conference**

- A. Settlement proposals and status;
- B. Proposed discovery and motion schedule;

- C. Pending Motions
- D. Reassignment to a magistrate judge;
- E. Mediation through ADR program;
- F. Certifications Pursuant to local rules
- G. Other matters, if any.

## **II. Settlement Proposals and Status**

The Parties have discussed the topic of settlement. The Plaintiff provided the Defendant, Life Fitness, Inc. and Brunswick Corporation with a settlement proposal on Friday, February 23, 2018. The Plaintiff provided the Defendants, The Sheraton Oklahoma City Downtown Hotel, The Sheraton LLC, Starwood Hotels & Resorts Worldwide, LLC, and Marriott International, Inc., with a settlement proposal on Wednesday, February 28, 2018. Defendants Life Fitness, Inc. and Brunswick Corporation conveyed an offer of settlement to Plaintiff on March 14th, 2018. Plaintiff has rejected that offer. Defendants, The Sheraton Oklahoma City Downtown Hotel, The Sheraton LLC, Starwood Hotels & Resorts Worldwide, LLC, and Marriott International, Inc. have not responded to Plaintiff's settlement proposal.

## **III. Proposed Timetable for Discovery and Motion Practice**

- A. Initial Disclosures. The Parties will exchange initial disclosures pursuant to Fed. R. Civ. P. 26 (a)(1) and this Court's Notice of Scheduling Conference no later than fourteen (14) days after this Court rules on the pending Motions to Dismiss.
- B. Amendments to Pleadings. The Parties agree to amend their pleadings, and join any additional parties, on or before Friday, June 29, 2018.

C. Fact Discovery – Interim Deadlines.

1. The Parties agree that they will serve initial requests for production of documents, interrogatories and admissions by April 23, 2018.
2. The Parties agree that they will serve supplemental requests for production of documents, interrogatories and admissions July 6, 2018.
3. The Parties agree that they will take all depositions other than expert depositions by Monday, September 24, 2018.

D. Fact Discovery – Final Deadline. The parties agree that all discovery, other than expert discovery, will be completed by Monday, September 24, 2018.

E. Proposed Status Conference. The Parties request that the court hold a status conference during the week of October 22, 2018.

F. Expert Discovery.

1. The Plaintiff's trial experts will be designated, and the information contemplated by Fed. R. Civ. P. 26(a)(2) will be disclosed, by Monday, October 27, 2018.
2. The Defendants' trial experts will be designated, and the information contemplated by Fed. R. Civ. P. 26(a)(2) will be disclosed, by Friday, November 30, 2018.
3. The Plaintiff's trial experts will be deposed by Monday, January 7, 2019.
4. The Defendants' trial experts will be deposed by Monday, January 14, 2019.
5. The parties agree that the plaintiff's experts shall be deposed first, with the defendants' experts' depositions to follow thereafter and that the defendants will designate their experts prior to the depositions of the plaintiff's experts. The parties further agree that three dates on which the experts are available for deposition must be provided with the disclosure.

G. Dispositive Motions.

The Parties agree that dispositive motions, such as motions for summary judgment or partial summary judgment and motions for judgment on the pleadings, will be filed by Friday, February 15, 2019.

H. Initial Pretrial Conference.

The Parties request that this court hold an initial pretrial conference one month after the court's order on the Parties' motions pursuant to Fed. R. Civ. P.R. 56, if any; otherwise to be scheduled on or about Friday, March 15, 2019.

**IV. Pending Motions**

- A. Defendants, Life Fitness, Inc.'s and Brunswick Corporation's Motion to Dismiss All Claims for Lack of Personal Jurisdiction<sup>1</sup> ;
- B. Defendant, The Sheraton LLC's Motion to Dismiss filed in the Superior Court of Massachusetts ;
- C. Defendant, The Starwood Hotels & Resorts Worldwide, LLC's Motion to Dismiss filed in the Superior Court of Massachusetts.

**V. Reassignment to Magistrate Judge**

At this time, the parties do not consent to reassignment to a magistrate judge

**VI. Mediation through ADR program**

The Plaintiff is open to mediation and believes that the process has a reasonable

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<sup>1</sup> Defendants, Life Fitness, Inc.'s and Brunswick Corporation's Motion to Dismiss All Claims for Lack of Personal Jurisdiction is still pending and is scheduled for hearing in this Court on March 22, 2018 before the Scheduling Conference in this matter is to begin.

possibility of success. Defendants Sheraton Oklahoma City Downtown Hotel, the Sheraton LLC, Starwood Hotels and Resorts Worldwide, LLC, Marriott International, Inc., Life Fitness, Inc. and Brunswick Corporation are also open to mediation to resolve this matter.

**VII. Certifications pursuant to local rule 16.1 (d)(3)**

The Parties will file their respective Certifications pursuant to local rule 16.1 (d)(3) signed by representatives of the parties and their counsel, on or before April 4, 2018.

**VIII. Other Matters**

Defendants Life Fitness, Inc. and Brunswick Corporation have requested information as to the serial number of the subject machine, the location of the subject machine, the age of the subject machine, the location of the cable on the subject machine that is alleged to have snapped, and the manufacturer of the subject cable. Such information may have an impact on these proposed discovery deadlines.

Respectfully submitted,

PLAINTIFF,  
**ANTHONY BUTLER**  
By his Attorneys,

DEFENDANTS,  
**THE SHERATON OKLAHOMA  
CITY DOWNTOWN HOTEL;  
THE SHERATON LLC;  
STARWOOD HOTELS & RESORTS  
WORLDWIDE, LLC and MARRIOTT  
INTERNATIONAL INC.**  
By their Attorney,

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**CERTIFICATE OF SERVICE**

I, Kelly Wallace Ianelli, hereby certify that on March 19, 2018, a copy of the foregoing document was served on all registered participants identified on the Notice of Electronic Filing by filing of same through the ECF system.

/s/ KellyWallace Ianelli  
Kelly Wallace Ianelli